

Iowa Telecommunications Association

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September 19, 1997

William F. Caton
Secretary
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

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RE: Ex Parte Notice
CC Docket No. 96-45

Dear Mr. Caton:

On July 17, 1997 the Iowa Telecommunications and Technology Commission (ITTC) filed a Petition for Clarification and Partial Reconsideration in the above-referenced docket. In its Petition, the ITTC raised three issues: (1) eligibility of schools for USF and discounts for services from the Iowa Communications Network (ICN); (2) payments for ICN costs rather than charges; and (3) USF payments by nonprofit entities.

As you are probably aware, the ICN has been extremely controversial in the State of Iowa. The ICN provides a wide range of telecommunication services to state, federal, education, library, health care and other users which would otherwise be provided by commercial companies. The Iowa Telecommunications Association (ITA) has not adopted a position on the first issue of whether services provided through the ICN should be eligible for universal support funds.

However, should the services received by educational institutions through the ICN be eligible for USF funds, the ITA has concern regarding Section III of the ITTC filing of July 17, 1997. At page 6 of its Petition, it is stated:

The Iowa Subsidies are structured similar to the federal support program. That is, the initial charge to the school is set based on ICN's costs and then a subsidy is applied. A school's actual subsidy depends on the kinds and amounts of the service it uses. Moreover, the subsidies are allotted on a school-by-school basis, just as in the federal program.

That is not the understanding of the ITA as to the pricing for ICN services to schools which may be eligible for USF. Before the Commission would consider the proposal of the ICN, it should obtain detailed information concerning the pricing for ICN services.

An applicable 1997 Iowa appropriation bill (H.F. 730) states: "The department of education shall establish by rule a procedure for the commission (ICN) to be reimbursed for that portion of the cost of providing interactive video service to nonpublic and public schools for grades kindergarten through twelve and community colleges which is not included in the rates charged to such users for such services." (p. 4, emphasis added) The rules of the Department of Education are attached to this letter and demonstrate the support of cost not rates. (It can also be seen that the Iowa support is not structured similar to the federal support program.)

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ICN appears to request that it be paid based on the cost of ICN services rather than on the prices. The discount however is to be applied to the charges which will be made to and paid by the schools in the absence of the discount. As the Commission recognized "the prediscount price is the price of services to schools and libraries prior to the application of a discount". (Paragraph 473)

The Commission has also required that there be competitive bidding to establish appropriate prices to be charged to schools. (Paragraph 480) The only discount must be from prices actually charged to the schools.


With respect to Part IV of the ITTC petition, ITA merely reiterates the conclusion of the Commission at Paragraph 784 of its Order. The requirement for a contribution in the statute in no way relates to the profit or nonprofit status of the provider of the service. The contribution is to come from all who receive fees from telecommunication service. Furthermore, the ICN is providing telecommunication services to its users which would be provided by commercial companies but for the state network. As the Commission stated:

It is also competitively neutral to require all carriers and other providers of interstate telecommunications' to contribute to the support mechanisms because it reduces the possibility that carriers with universal service obligations will compete directly with carriers without such obligations. (Paragraph 783)

The ITA believes that a state network competing with private firms should not receive preferential consideration.

Very truly yours,

IOWA TELECOMMUNICATIONS ASSOCIATION



J. Kent Jerome
Executive Vice President

ARC 7471A

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby adopts Chapter 8, "ICN Subsidization Reimbursement Procedures," Iowa Administrative Code.

This chapter implements recent legislation requiring the Department of Education to develop rules to disburse \$2.5 million to the Iowa Communications Network.

In accordance with Iowa Code section 17A.4(2), the Board finds that public notice and participation are impractical and contrary to the public interest in that the interactive video classrooms will be in constant use with the start of the new school year. Immediate reimbursement to the Iowa Telecommunications and Technology Commission is necessary to ensure that the network will be operational for the 1997-98 school year.

In accordance with Iowa Code section 17A.5(2)"b"(2), the Board also finds that the usual effective date of these rules, 35 days after publication, should be waived and the rules be made effective on August 11, 1997. This effective date confers a benefit on the public by allowing the board to reimburse the Telecommunications and Technology Commission so that the network is operational and available for schools to use during the 1997-98 school year.

These rules are also published herein under Notice of Intended Action as **ARC 7470A** to solicit public opinion.

This chapter was approved by the Board on August 8, 1997.

This chapter is intended to implement 1997 Iowa Acts, House File 730, section 2, subsection (2), paragraph "a."

This chapter became effective on August 11, 1997.

The following new chapter is adopted.

CHAPTER 8

ICN SUBSIDIZATION

REIMBURSEMENT PROCEDURES

281—8.1(77GA, HF730) Definitions. For the purposes of interpreting these rules, the definitions of 751 IAC 7.1(8D) shall apply, except as follows:

"Department" means the Iowa department of education.

"School," for purpose of this rule only, means a public or nonpublic school, area education agency or community college which is considered an authorized user under 751 IAC 7.1(8D).

"Subsidization fund" means the funds appropriated to the department in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriations given during the fiscal year ending June 30, 1998, for the purpose of reimbursing the commission for the costs of providing interactive video service to schools.

281—8.2(77GA, HF730) Subsidization reimbursement. The department shall reimburse the commission from the subsidization fund that portion of the cost of providing interactive video service to schools which is not included in the rates charged to such users for such service. The department shall reimburse the commission in accordance with rates approved by the commission.

281—8.3(77GA, HF730) Billing/payment process. The commission shall submit to the department a consolidated monthly invoice for the cost of providing interactive video

service to schools which is not included in the rates charged to such users for such service. Monthly authorization for payment will be determined by the department based upon a review of the billing statements received from the commission. In addition to the consolidated monthly invoice, the billing statements shall, at minimum, include:

8.3(1) Video usage billing.

- a. The name of the requesting authorized user;
- b. The title of each individual session;
- c. The number of sites in each individual session;
- d. The number of hours of video usage per session;
- e. The total charge for each session;
- f. The portion charged to the requesting authorized user;
- g. The portion charged to the subsidization fund;
- h. The total charge to the subsidization fund.

8.3(2) Video circuit billing.

- a. The name of the school;
- b. The start billing date for the circuit charges;
- c. The number of annual hours produced to date at the school;
- d. The monthly charge based upon annual production to date at the school;
- e. The first month's charge for new site addition (if applicable);
- f. The monthly charge for the existing site;
- g. The total charge to the subsidization fund.

281—8.4(77GA, HF730) Subsidization fund. The department shall not be liable for reimbursing the commission any amounts which are in excess of the appropriation made in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriation for this purpose during the fiscal year ending June 30, 1998.

281—8.5(77GA, HF730) Remaining fund balance. Any remaining funds from the appropriation made in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriations given for this purpose during the fiscal year ending June 30, 1998, shall not revert to the general fund of the state but shall be available for expenditure during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program or purpose.

281—8.6(77GA, HF730) Advance for authorized users. The department may advance to the commission moneys from the subsidization fund to support authorized users as determined appropriate by the commission.

[Filed Emergency 8/8/97, effective 8/11/97]

[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

ARC 7464A

PERSONNEL DEPARTMENT[581]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 19A.9, the Department of Personnel proposes to amend Chapter 15, "Benefits," Iowa Administrative Code.

These amendments include changes resulting from legislation in 1997 Iowa Acts, House File 540. Specifically, these are new and revised rules for deferred compensation, includ-